

FLORENCE TOWNSHIP ZONING BOARD

RESOLUTION NO. Z.B.-2021-09

Application ZB#2021-04

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
BILL and LISA WELDON
BLOCK 155.50, LOT 34
RA LOW DENSITY RESIDENTIAL ZONING DISTRICT
IMPERVIOUS LOT COVERAGE
ACCESSORY STRUCTURE SETBACK VARIANCES
APPROVAL**

Decided: June 3, 2021
Resolution Memorialized: July 8, 2021

WHEREAS, Bill and Lisa Weldon have made application to the Florence Township Zoning Board of Adjustment seeking impervious lot coverage and accessory structure setback variances to allow construction of a 14' x 30' in-ground pool with 3' wide concrete deck and a 1300 sq. ft. paver patio, and a 10' x 15' shed at a property located at 903 Schisler Drive Street and known on the Official Tax Maps of the Township of Florence as Lot 34 of Block 155.50;

WHEREAS, the applicants are the owners of the subject property;

WHEREAS, upon a finding that the applicant had provided proper mailed and published notices of hearing and that jurisdiction was proper in the Board, it opened a hearing on the application at its June 3, 2021 regular meeting;

WHEREAS, the applicants appeared *pro se*, were sworn, and offered their testimony in support of the application;

WHEREAS, the Board, based upon the recommendations of the Board Engineer, found the variance application sufficiently complete to be heard;

WHEREAS, the Florence Township Zoning Board of Adjustment has made the following findings of fact and conclusions of law:

Findings of fact:

1. The applicants are the owners of the subject property, and therefore have standing to bring this matter before the Board.
2. The applicants have provided proper mailed and published notices of hearing, and jurisdiction is proper in the Board.
3. Application has been made for an impervious lot coverage and accessory structure setback variances to allow construction of a 14' x 30' in-ground pool with 3' wide concrete deck and a 1300 sq. ft. paver patio, and a 10' x 15' shed at a property located at 903 Schisler Drive Street and known on the Official Tax Maps of the Township of Florence as Lot 34 of Block 155.50.
4. The applicant has submitted the following documents in support of its application:
 - a. A completed Township of Florence Land Development Application;
 - b. A completed Township of Florence Variance Application Checklist of Submission Requirements;
 - c. Proof that no taxes were due on the subject properties at the time of the application;
 - d. A drawing entitled "Topographic Survey and Pool Grading Plan" prepared by Thomas A. Harris, Jr., PLS showing the property outbounds, as well as existing and proposed improvements;
 - e. A landscape sketch prepared by Jonathan J. Bob, NJ LLA dated March 2021;
 - f. Zoning Officer's Certification;
 - g. An executed Escrow Agreement;
 - h. Proper application and escrow fees as required by ordinance;
5. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted review letter dated May 20, 2021 commenting upon the application which is hereby incorporated into the record.

6. Existing lot coverage is 27.2%, maximum permitted lot coverage is 25% (20% + 5% for pools and sheds), and proposed lot coverage will be 55%.
7. The applicant testified that there are many nearby properties with similar amenities and intensities of development, that the proposed development will be consistent with the character of the neighborhood, and that there are no existing problems with runoff or drainage. The property presently drains toward Broad Street.
8. The Board Engineer concurred that he does not perceive there to be issues with grading or runoff that would result from the proposed development in light of the elevations of neighboring properties and existing drainage patterns.
9. The subject property has two frontages on Schisler Drive and on Broad Street (which was constructed behind the subject property long after it was developed). There is a 10' wide easement at the "rear" of the subject property along its Broad Street frontage apparently running to the benefit of Florence Township that is variously called a "Planning Easement" or a "Planting Easement" on relevant documents. Parts of the concrete pool deck and paver patio, and the shed are proposed to be in this easement area.
10. The subject property is an existing undersized 7,500 sq. ft. lot (10,000 sq. ft. required) which makes it impossible to construct amenities that are typical in the neighborhood within the ordinance limitations of impervious coverage.
11. The undersized nature of the subject lot, the existence of two frontages, and the "Planning" or "Planting" easement, similarly creates exceptional practical difficulties for development within the usual limitations of applicable ordinance setback standards from property side and front lines and from easements.
12. The shed is proposed to be setback 0 ft. from the rear property line and 3 ft. from the property side line, within the referenced easement, and the parts of the pool deck and paver patio will also be on the subject property (not the Broad Street right of way) but within the easement area. So in addition to side and rear setback relief for the shed, the shed, patio and concrete surround will also require an easement setback variance.

13. The fenced area on this property, like all of the other properties in this block of Broad Street have fenced rear yards that extend into the Broad Street right of way- a condition that this Board cannot endorse or affirmatively allow to continue but which this Board also has no means or obligation to force abatement.
14. The Board accepts the testimony of the applicant and the Board Engineer as credible and probative
15. No public comment was offered on the application.

Conclusions of Law:

The Board finds that the proposed bulk variances for impervious lot coverage, side and rear setbacks, and easement setbacks can be approved pursuant to NJSA 40:55D-70(c)(1), because the nature of the subject property and the existing lawful development of the property make it exceptionally difficult to provide typical improvements within the bounds of applicable ordinance standards. Because this property has such peculiar qualities, and because the proposed improvements are so typical of those found on similar nearby properties, the Board does not perceive any substantial detriment to the public good or impairment to the zone plan which would flow from the proposed development. Therefore, the Board finds it appropriate, pursuant to NJSA 40:55D-70 (c)(1), and subject to appropriate conditions, to grant the requested bulk variances.

In addition to the conclusions set forth above, the applicant has fulfilled the procedural requirements for the proposed development. Therefore, the requested bulk variances should be granted.

NOW, THEREFORE, BE IT RESOLVED by the Florence Township Planning Board in the County of Burlington and State of New Jersey that the application of Bill and Lisa Weldon have made application to the Florence Township Zoning Board of Adjustment seeking impervious lot coverage and accessory structure setback variances to allow construction of a 14' x 30' in-ground pool with 3' wide concrete deck and a 1300 sq. ft. paver patio, and a 10' x 15' shed at a property located at 903 Schisler Drive Street and known on the Official Tax Maps of the Township of Florence as Lot 34 of Block 155.50, be and hereby is, **GRANTED**, subject to the following conditions:

1. The Board has relied upon the testimony of the witness and factual findings discussed in the body of this Resolution, and such testimony and findings are incorporated as conditions of this approval as though set forth at length herein.
2. No additional stormwater shall be directed onto adjoining properties as a result of the new development.
3. The proposed shed shall have a maximum height of 12 ft. (as measured to the peak of the roof) and shall be constructed with exterior finishes that are compatible with those of the dwelling on the subject property.
4. If the Township seeks to exercise its easement rights concerning the “Planning” or “Planting” easement at the rear of the subject property, and such exercise is incompatible with any of the improvements that are approved hereby, such improvements shall be removed at the sole cost and expense of the owner of the subject property.
5. All taxes and escrow fees for professional review must be paid in full.
6. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: Florence Township Construction Office.
7. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.
8. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required and shall provide the Board with copies of all reports and approvals for same, including copies of any and all applications filed.
9. Publication of a brief notice of this decision in the official newspaper of the municipality within 10 days of the date hereof.

The conditions of this approval shall run with the land and be binding on all successors in interest, purchasers and assignees. In the event that the applicant does not perfect this approval within one year of the date hereof (or such extended date as may be

provided by statute or Board action), this approval shall be void, unless, for good cause shown, the applicant seeks extension thereof.

MOTION TO APPROVE BULK VARIANCE:

Moved by : Mr. Haas
Seconded by : Ms. Mattis
In Favor : Mr. Haas, Ms. Mattis, Mr. Buddenbaum, Mr. Lutz
Mr. Puccio, Mr. Sovak, Chairman Patel
Opposed : None
Abstained : None
Recused : Mr. Cartier
Absent : None

MOTION TO ADOPT RESOLUTION:

Moved by : Mr. Lutz
Seconded by : Mr. Buddenbaum
In Favor : Mr. Lutz, Mr. Buddenbaum, Mr. Puccio, Mr. Sovak,
Chairman Patel, Mr. Haas
Opposed : None
Abstained : Mr. Cartier
Absent : Ms. Mattis

FLORENCE TOWNSHIP PLANNING BOARD

Dated: 7-08-2021 ant Buas
Anant Patel, Chairman

CERTIFICATION

BE IT REMEMBERED that the within written Resolution was duly adopted at a regular meeting of the Florence Township Zoning Board of Adjustment held on July 8, 2021 and memorializes a decision taken by the Board on June 3, 2021.

Dated: 7/08/2021 Larry Lutz
Larry Lutz, Secretary